
Program Audit Follow-up: Motor Fuel Tax (HB 1247)

*Prepared for the Committee on Legislative Research
by the Oversight Division*

Jeanne Jarrett, CPA, CGFM, Director

*Audit Team:
Mickey Wilson, CPA, Team Leader, Pam Hoffman, CPA*

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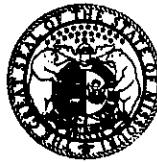
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JEANNE JARRETT, CPA
DIRECTOR
573 • 751-4143
FAX 573 • 751-7681

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Members of the Committee on Legislative Research:

As required by statute, we have concluded our follow-up review of the December, 1994 program audit report issued on the Motor Fuel Tax (HB 1247). One year after the completion of a management or program audit, the Oversight Division is required to review the operations of the agency audited to determine whether or not there has been substantial compliance with the recommendations contained in the report.

We are pleased to report that two of the recommendations made by the Oversight Division have been fully implemented and the remaining six recommendations have been partially implemented or are in the process of implementation.

The accompanying report includes the original audit findings and recommendations with our comments regarding their status.

A handwritten signature in black ink, appearing to read "Jeanne A. Jarrett".
Jeanne A. Jarrett, CPA, CGFM
Director, Oversight Division

Introduction

The Joint Committee on Legislative Research directed the Oversight Division to perform a program audit of HB 1247, which was Truly Agreed to and Finally Passed during the 86th General Assembly Second Regular Session and signed into law by the Governor. HB 1247 provides for three two-cent increases in the motor fuel tax. The General Assembly has the option of putting the scheduled motor fuel tax increase in 1996 to a vote of the people for implementation or repeal. This audit provides them with information that will be useful in determining if they should exercise this option. The audit also informs the General Assembly of whether the tax money is being used efficiently and effectively, administered as authorized or required by law and used as intended by law.

Background

HB 1247 contains provisions for three two-cent tax increases. The first tax increase was effective April 1, 1992 and increased the state motor fuel tax from eleven cents to thirteen cents per gallon of motor fuel sold. The second became effective April 1, 1994 and increased the state tax from thirteen cents to fifteen cents per gallon, and the final increase raised the tax to seventeen cents per gallon on April 1, 1996. Prior to HB 1247, Proposition A was passed which increased the motor fuel tax from seven cents to eleven cents per gallon, effective June 1, 1987.

HB 1247 limits the increase or decrease in appropriations from the prior year out of the highway fund to the percentage increase or decrease in total state revenues paid or transferred into the fund from the prior year. However, the Highway and Transportation Commission and Department of Highway and Transportation are not subject to this limitation. According to the bill, for fiscal year 1993 the base year for appropriations was fiscal year 1987; however, the increase or decrease in revenues was compared to fiscal year 1992. The state agencies that have received appropriations out of the highway fund during fiscal years 1992, 1993 and 1994 include the

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Department of Highway and Transportation (DH&T), State Auditor's Office (SAO), State Treasurer's Office (STO), Office of Administration (OA), Department of Economic Development (DED), Department of Health (DOH), Department of Public Safety (DPS) and Department of Revenue (DOR). The law does not allow the DH&T to use any of the tax increase for administrative expenses.

Historically, the highway fund has not earned its own interest. The interest is credited to the general revenue fund. HB 1247 allowed for interest earned by the highway fund, exceeding the amount earned in fiscal year 1991, to be credited to the highway fund. However, due to declining interest rates, as of June 30, 1994 the interest had not yet exceeded the 1991 amount.

The 15 Year (1992-2007) Road and Bridge Program includes not only 1992 road and bridge construction projects added from the HB 1247 tax increase, but also Proposition A construction projects. The purpose of this is to expedite the Prop. A projects with the HB 1247 tax increase. When Prop. A projects are completed, the Prop. A tax plus the HB 1247 tax will be used to complete the projects added with the 15 year program. Page two of the 15 Year (1992-2007) Road and Bridge Program states "The first five to six years will complete Proposition A." Through August, 1994, contracts for approximately 60% of the Proposition A construction projects have been awarded and approximately 2.5% of the additional HB 1247 projects have been awarded.

The construction expenditures are not necessarily proportional between highway districts. According to DH&T, funds are committed for 15 year projects as they are ready for construction. In other words, the districts are on a first come, first serve basis. For example, through June 30, 1994 approximately \$54,000,000 was spent on 15 year program projects, of which approximately \$20,600,000 was spent in district eight and approximately \$6,700,000 was spent in districts one and four combined.

The 15 Year (1992-2007) Road and Bridge Program does not include a time line for completion of the construction projects. A separate document, the Highway Right of Way and Construction Program, is updated annually and includes all of the construction projects with the years they are scheduled for letting. The DH&T's goal is to have all of the projects included in the 15 year program under contract by the year 2007. Therefore, the projects will not necessarily be completed by the year 2007.

Authority, Purpose, and Scope

This Follow-up audit was conducted under the authority of Section 23.190 RSMo, which requires that one year after the completion of each audit the Oversight Division shall review the operations of the agency audited to determine whether or not there has been substantial compliance with the recommendations contained in the audit report. This follow-up was conducted according to generally accepted government auditing standards. Audit testing was limited in the follow-up, and mainly consisted of conducting interviews and some limited sampling. With respect to items not tested, nothing came to our attention that would cause us to believe that the state is not in compliance with any applicable laws, regulations, contracts or grants.

The purpose of this report is to present our conclusions regarding the Department of Highways and Transportation, the Department of Public Safety - Missouri State Highway Patrol, the Department of Revenue, the Office of State Auditor, and the Office of State Treasurer status in implementing recommendations from the December, 1994 performance audit. The report detailing that performance audit contained eight recommendations.

Implementation Status of the Audit Recommendations

FINDING #1:	The Department of Highway and Transportation expended a portion of the HB 1247 tax revenue for administrative purposes, perhaps as much as \$6,000,000, even though the bill expressly prohibited such use.
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Recommendation:

The DH&T should set up separate subaccounts or a spreadsheet to monitor their HB 1247 construction expenditures. Pursuant to the recommendation

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to finding #2, the subaccounts or spreadsheet would account for the expenditures coming out of only the revenue from the HB 1247 tax increase. These subaccounts or spreadsheet would be restricted to only construction of roads and bridges, as indicated in the 15 Year (1992-2007) Road and Bridge Program. If the intent of the legislation is to restrict the use of the tax increase to only construction and no administration at all, the law would need to be amended to require the HB 1247 tax increase be deducted from total highway fund revenues before calculating the appropriations to other state agencies.

Status:

This recommendation has been partially implemented. The Department of Highways and Transportation has developed a spreadsheet to track revenues resulting from HB 1247. However, the spreadsheet does not reflect expenditures specifically matched to the revenues, since the Department considers these revenues a component of a larger pool of funds available for construction.

FINDING #2:	The DH&T did not separately account for the revenues and expenditures related to the HB 1247 tax increase.
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Recommendation:

If the intent of the legislation is to restrict the use of the HB 1247 tax increase to construction, Oversight recommended that DH&T begin to track the HB 1247 revenues and expenditures separately; for example, using separate subaccounts or a spreadsheet. The level of construction expenditures prior to the HB 1247 tax increase could not decrease from year to year.

Status:

This recommendation has been partially implemented. The Department of Highways and Transportation has developed a spreadsheet to track revenues resulting from HB 1247, but it does not include expenditures specifically matched with the revenues. DH&T officials indicated that they consider all

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expenditures from the State Road Fund to be for construction-related activities, while all administrative costs of DH&T are charged to the State Highways and Transportation Department Fund. Due to revenues being generated from HB 1247 and being credited to the State Road Fund, DH&T officials indicate the funds cannot be charged for administrative costs. Oversight's understanding of the legislative intent of the definition of "administrative costs" at the time of the original audit was that such costs included all personal services costs (HB 1247 did not define "administrative costs" but prohibited the DH&T from using the revenues for such costs). DH&T maintains that certain personal service costs are not administrative costs, but are construction-related. Oversight prepared an analysis which compared the amount actually spent on administration (including all personal services) to a ceiling calculated based on the growth in other revenue sources. It appears that DH&T has not spent HB 1247 revenues on administrative costs during FY 1995.

FINDING #3:	Some state agencies did not maintain proper documentation to justify their expenditures of HB 1247 revenue.
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Recommendation:

Oversight recommended that all state agencies receiving highway fund appropriations be required to perform internal studies with existing personnel to determine that their appropriations are coming from the correct funds. These studies should be done every other fiscal year as part of the budget process. It was also recommended that the Joint Committee on Legislative Research consider further research on these appropriations to determine that the activities supported by the highway fund are used for the purposes specified in sections 30(a) and 30(b) of article IV of the Constitution of Missouri.

Status:

This recommendation has been partially implemented. The Department of Revenue (DOR) performed a fiscal analysis to determine the appropriate funding distribution between General Revenue and the State Highways and

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Transportation Department Funds. Based on that analysis, DOR reduced its Highway funding core request and increased its general revenue funding request by \$2,221,855.

The Office of State Treasurer (STO) stated that during the 1995 legislative session they formulated a proposal to fund the operational expenses of the STO directly from interest earned on state investments. The STO states that the proposal raised issues concerning conflicts with specific statutory and constitutional sections regarding how interest earnings would be addressed for certain funds. It became apparent to the STO that absent a clear statement of legislative intent regarding the most appropriate method of funding the operational expenses, the proposal would not be pursued.

The Missouri State Highway Patrol has not conducted a study to determine the proper allocation of general revenue and highway funding. Officials indicate that certain adjustments were made to the budget allocation in FY 1996, but it appears that those reallocations were an effort to restore budget allocations that existed prior to FY 1990, when the Patrol's funding allocation was revised to alleviate statewide budget concerns.

The State Auditor's Office has also not conducted a study to determine the proper allocation of general revenue and highway funding. Officials indicate that they are not aware of particular instances where appropriations were not made from the appropriate funds.

Oversight continues to recommend that any state agency receiving highway appropriations perform periodic reviews to determine if the allocation of their funding is appropriate based on the actual amount of effort expended on highway-related functions.

FINDING #4:	The date of the <u>15 Year (1992-2007) Road and Bridge Program</u> obtained from the DH&T did not correspond to HB 1247, and the DH&T has amended the program without legislative approval.
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Recommendation:

HB 1247 did not allow for amendments to the 15 Year (1992-2007) Road and Bridge Program. Oversight recommended a legislative change to allow for the DH&T to amend the 15 Year (1992-2007) Road and Bridge Program to adjust for changes in estimates, etc. with the approval of the legislature. Another option would have been to require legislative approval of the program, along with the tax increase, every three years since the DH&T can only predict with any degree of certainty projects for the next three years. The program book could then be updated every three years. The updated program book would also include a time line for starting and completing the projects. These recommendations would allow for an accurate document to exist for the legislature and the taxpayers indicating how the tax increase from HB 1247 will be used.

Status:

This recommendation has been partially implemented. The Department of Highways and Transportation (DH&T) has not requested legislative approval for changes to the 15-year plan as DH&T's position is that such approval is not required in order for changes to be made. DH&T did approve in April, 1995, a three-year program detailing projects to be under contract by December, 1998.

FINDING #5:	The DH&T's accounting system did not provide a clear and efficient trail of the history of transactions.
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Recommendation:

Oversight recommended that DH&T research what accounting software would be compatible to their needs and the costs of such products.

Status:

This recommendation has been implemented. DH&T is in the process of working with the Office of Administration and other state agencies in selecting a state-wide automated financial system, to include integrated

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budgeting, purchasing, payroll and accounting functions. According to officials at the Office of Administration, requests for proposals are to be solicited beginning in May, 1996 subject to legislative funding approval. A vendor is to be selected and an implementation plan in place by the fall of 1996, with actual implementation and training in early 1997.

FINDING #6: *The DH&T did not follow Missouri transient employer laws in regard to contracting with out-of-state construction companies. Their procedures did not include obtaining proof of registration with some other state agencies.*

Recommendation:

Oversight recommended that DH&T implement a policy to require a copy of the certificate of registration from the contractor before approving the contractor to be eligible to bid on Missouri jobs. This would enable the DH&T to avoid potential tax liabilities for the out-of-state contractor's state employment tax liabilities.

Status:

This recommendation has been partially implemented. Beginning with projects let in December, 1994, the Department began including provisions in all contracts requiring out-of-state contractors to register with the Department of Revenue. However, it appears that the DH & T does not maintain verification on file that such contractors have registered with the Department of Revenue.

FINDING #7: *Total construction expenditures projected by the DH&T exceeded projected revenues.*

Recommendation:

Oversight recommended that the DH&T consider whether they would have adequate funding to complete the projects included in the 15 Year (1992-

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2007) Road and Bridge Program and determine if the projects could be completed more efficiently or the fund balances could absorb the difference to avoid another tax increase.

Status:

This recommendation has been implemented. In April, 1995, DH&T approved a three-year program detailing projects to be under contract by December, 1998. This Short Term Action Plan also details the sources of funding that would allow for meeting the plan's goals. Included as a source of funding for the projects in the three-year plan was a \$500 million bond issue, which is no longer being pursued as a source of funding. As a result DH&T officials indicate that the date by which projects were to have been under contract will likely be delayed by approximately six months to one year. DH&T completed an annual review in February, 1996, of the road and bridge development program. The review was forwarded to the Highway Commission, the Governor and the General Assembly.

FINDING #8: DH&T's internal accounting controls were not sufficient to protect the agency against errors or irregularities.

Recommendation:

In order to follow good internal control procedures, someone other than the preparer of a document should approve it.

Status:

This recommendation has been partially implemented. The DH&T's written policy requires that an immediate supervisor approve and sign employee time sheets. DH&T officials indicate that in all cases time sheets are to be signed by someone other than the preparer. However, Oversight selected a sample of time sheets and noted four instances where time sheets were not approved and eleven instances where the person preparing and approving the time sheets were the same individual.